Daily Tax Law Briefing
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Income Tax *(2 judgments)*

TITLE	BRIEF FACTS	RATIO
Ms. Dinar Tarcar Resources (India) Pvt. Ltd. represented by Shri Ankush Pednekar & 2 Ors. v. The Income Tax Department represented by the Deputy Commissioner of Income Tax **Criminal Writ Petition No. 202 of 2026** **Bombay High Court** Click to view	The petitioners challenged the order dated 7 November 2025 by which the Chief Judicial Magistrate, Merces, issued process in Criminal Case No. AOA/184/2017/A based on a complaint under Section 276-C(2) of the Income-tax Act, 1961 alleging wilful attempt to evade payment of tax for Assessment Year 2012-13. The company had declared its income in the return, the assessment accepted the declared income, and during the course of proceedings it paid the entire tax liability together with interest and penalty. A rectification order under Section 154 subsequently recorded that the net tax payable was nil, yet the prosecution was continued.	The High Court held that prosecution under Section 276-C(2) requires proof of a wilful attempt to evade payment of tax, which necessarily imports the element of mens rea. Mere delay or default in payment, particularly where the assessee continuously sought time, made substantial payments, ultimately discharged the entire tax liability with interest, and no false entries or deliberate acts to evade tax were alleged, does not satisfy the statutory ingredients of the offence. The complaint contained only vague allegations without specifying any wilful acts and the Magistrate mechanically issued process without examining whether the essential ingredients of the offence existed. Consequently, the order issuing process dated 7 November 2025 and Criminal Case No. AOA/184/2017/A were quashed and set aside. Petition Allowed.
The Director of Income Tax (International Taxation) v. M/s Star Cruises (India) Pvt. Ltd. **Civil Appeal Nos. 3334–3336 of 2012** **Supreme Court of India** Click to view	The Revenue challenged the Bombay High Court judgment affirming the orders of the CIT(A) and ITAT in respect of Assessment Years 2006-07, 2007-08 and 2008-09. The respondent, acting as agent of Superstar Libra Ltd., a non-resident cruise operator, sought deduction of tax at source under Section 195 by applying the presumptive taxation provisions of Section 44B of the Income-tax Act. The Assessing Officer held that the cruise activity primarily involved	The Supreme Court held that Section 44B applied to the non-resident cruise operator. It observed that the Assessing Officer had adopted an unduly restrictive interpretation of the expression "carriage" by confining it to transportation from one port to another. The Court accepted the concurrent findings of the CIT(A), ITAT and High Court that operating a cruise, including round trips and permitting passengers to disembark at intermediate ports, constitutes carriage within the meaning of Section 44B. Ancillary hospitality and

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	hospitality and entertainment rather than carriage of passengers and estimated income at 25% instead of 7.5%.	entertainment services do not alter the essential character of the business as operating ships. Accordingly, the assessee's income was rightly computed at the statutory presumptive rate of 7.5% under Section 44B, and no interference with the concurrent factual findings was warranted. Civil Appeals Dismissed.

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